



“ASKS” from ROCC Relative to the Consent Decree Being Prepared for Submission

The Restore Our Creek Coalition (ROCC) thanks all parties to the Consent Decree (CD) for the meaningful discussions about how the proposed CD can reflect the desires of the people of Butte as presented in ROCC's community-created Silver Bow Creek Headwaters Park document. There can be a “win-win” conclusion to the twelve-year CD endeavor and especially our collective efforts over the last year. We now need to move together, hand-in-hand, to a CD that can meet everyone's needs, knowing that we all have been able to find common ground in a challenging situation.

When Environmental Protection Agency (EPA) Regional Administrator Doug Benevento called us together at the Montana Tech Auditorium in January to hear the “agreement in principle” that emerged from CD discussions, we were told by Mr. Martin Hestmark, Assistant Regional Administrator of the EPA, that the elements of the agreement in principle “did not preclude” the accomplishment of ROCC's and Butte's objectives as articulated in the Silver Bow Creek Headwaters Park document, the center of which is restoration of a flowing, meandering, Silver Bow Creek from Texas Avenue to Montana Street. Mr. Hestmark's statement has been echoed many times since by Mr. Benevento and other parties.

Since that night we worked together in good faith to ensure that objective was real. As has often been said, it is not enough to simply assert that such a creek restoration could be done; in fact, the reality of its ability to be ultimately accomplished needs to be demonstrated and become part of the formal legal product of the CD effort. The collective actions of ROCC with the CD parties since that meeting in January have been to accomplish that goal.

The reality of those words about the creek need to be positively demonstrated by a level of design and engineering that shows the Butte community that a meandering and lined creek can actually be accomplished (lining being necessary to keep the creek water separate from storm water and ground water). Atlantic Richfield (AR) initially indicated their reluctance to show a conceptual design of a creek due to their concerns about having to then construct and/or finance that feature. However, ROCC's current request does not obligate AR for any such responsibility. Rather, a conceptual design that proves the feasibility of a meandering creek through the corridor and around the storm water ponds as they are being designed simply demonstrates that the statements made to the community about not precluding a creek are real. ROCC and the community are not asking for much, just proof.

To achieve some of the park aspects of the community vision in the Headwaters Park document, AR worked through public meetings with the local government, EPA and the State, to design community park amenities along the corridor from Casey Street to Montana Street as well as in the Butte Reduction Works area. We compliment AR and the other parties in that effort. We especially appreciate that much of what has been proposed has gone beyond pure “remedy,” a recognition that AR is working with the community to produce an outcome of which all can be proud.

Notwithstanding all of our collective good faith efforts, the centerpiece of the ROCC and community activity and planning – a restored Silver Bow Creek – is still not in the CD plans. However, we believe that a restored Silver Bow Creek is still possible as part of the CD and it is to that end that we submit the requests below -- requests that will help to demonstrate that the remedy will not preclude a restored creek that is, by design and engineering, demonstrated to be an accomplishable community objective.



THE “ASKS” from Restore Our Creek Coalition (ROCC)

1. All parties commit to “facilitate” the future restoration of Silver Bow Creek, similar in flow to Blacktail Creek, in a continuous corridor from Texas Avenue to its confluence with Blacktail Creek west of Kaw Avenue. We understand that AR maintains that “facilitation” does not include a responsibility to fund and further understand that AR will insist on language for the CD that makes their point clear.
2. The commissioning of a formal conceptual design and necessary engineering (essentially producing a positive feasibility analysis of the creek project) will be done as a way to demonstrate to the community that the restored creek within that corridor can actually be accomplished in a manner that does not conflict with AR’s remedy plans as outlined in the CD. The design and engineering needs to be undertaken as soon as possible so that the product can be embodied in the CD as described in #4 below. ROCC commits to immediately provide a draft creek alignment along with the Headwaters Park Plan, agrees to participate in the further design effort and agrees to cooperate with the engineering analysis.
3. That as the design and engineering of the creek proceeds, AR consider ways to realign the storm water basins in the Diggings East to provide better “meandering” opportunities for the restored creek as long as any such realignment does not impede the remedy itself.
4. The resulting conceptual and engineered design along the Silver Bow Creek corridor be included as language in the CD, and mapped out graphically as an attachment to the CD as presented for public comment. While the design will be for the full length of the creek from Texas avenue westward, the design and engineering would be done with the acknowledgement that under the CD storm water remedy AR maintains that the portions of the creek corridor above Casey Street are not AR’s responsibility. The portions of the creek corridor above Casey Street are included as a way to fully demonstrate the viability of the design for the full length of the restored Silver Bow Creek.

Assuming we can make these things happen, ROCC looks forward to being able to give support to the CD that is formally submitted to the public for comment, as it moves to adoption and, over time, implementation.

Again, we express our appreciation for the good faith efforts and the “give and take” of all parties over the past year. We do believe that we have found much common ground and can move hand-in-hand together to a CD that can meet everyone’s needs, and toward a solution in which everyone can take pride.

Restore Our Creek Coalition believes we can reach these goals while still honoring the trust placed in us by the people of Butte.

Sincerely,

Northey Tretheway
Spokesperson
Restore Our Creek Coalition